

COUNTY OF YORK

MEMORANDUM

DATE: May 24, 2001 (BOS Mtg. 6/5/01)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. CP-7-01, York County Planning Commission

In 1988 the Virginia General Assembly adopted the Chesapeake Bay Preservation Act, establishing a cooperative state and local government program to protect water quality in the Chesapeake Bay and its tributaries through improved land use management. The Act required the 89 counties, cities, and towns in the Chesapeake Bay watershed to incorporate water quality protection measures into their comprehensive plans, zoning ordinances, and subdivision ordinances in accordance with criteria established by the State. The General Assembly established the Chesapeake Bay Local Assistance Board (CBLAB) to develop regulations to implement the program and to ensure compliance on the part of local governments. CBLAB was also granted the exclusive authority to institute legal actions to ensure compliance by affected localities with both the Act and the criteria and regulations developed under the authority of the Act. The Chesapeake Bay Local Assistance Department (CBLAD) was established to provide staff support to the Board. The regulations were adopted on October 1, 1989 and have been in effect since that time.

Because of concerns that the anticipated impacts of the Act might lead to a rush in land development, CBLAB chose to forego standard planning practice and require the implementation of regulations by local governments before comprehensive plans were revised. Accordingly, York County amended its zoning and subdivision ordinances to implement the Bay Act and Regulations effective September 20, 1990. The Chesapeake Bay requirements were subsequently incorporated into the County's first true comprehensive plan, Charting the Course to 2010, adopted by the Board of Supervisors on December 5, 1991. In 1993, the CBLAB reviewed the plan for consistency with the Bay Act and Regulations and found it provisionally consistent with the Act subject to compliance by the County with three conditions:

- Obtain available information from various sources on possible sources of groundwater contamination such as leaking underground storage tanks, dump sites, etc. and devise a remediation strategy for inclusion in the next plan revision.
- Review the Hampton Roads Planning District Commission Shoreline Erosion and Public Access study and fully address the issue of shoreline erosion and streambed erosion in a manner appropriate to the magnitude of the problem in York County.
- Review the HRPDC Shoreline study and address the issues of (a) appropriate density of docks and piers and (b) proposed public and private access facilities.

The five-year review of the comprehensive plan began in 1996, culminating in the adoption of Charting the Course to 2015 by the Board of Supervisors on October 9, 1999. Some of the material in the 1991 plan was deleted from the 1999 plan in an effort to shorten the document to make it easier for citizens to use and understand. In addition, the format of the plan was changed, and much of the detailed technical information that appeared in the 1991 plan was moved from the plan text to the appendices.

Subsequently, CBLAB gave the County a deadline of June 30, 2001, to amend its Comprehensive Plan to address these issues. After consulting with CBLAD staff to develop an action plan for achieving compliance, County staff launched a major research effort, reviewing the appropriate reference materials and consulting the appropriate state and local agencies. The result of this work was the preparation of three technical reports, entitled Shoreline and Streambank Erosion, Protection of Potable Water Supply, and Public and Private Access to Waterfront Areas. Using information from those reports, staff has drafted a series of Comprehensive Plan amendments intended to bring the plan into compliance with the Chesapeake Bay Act and Regulations. Much of the information that had been deleted from the 1991 plan has been updated and reinstated. Information from the 1999 plan has been updated where necessary, and new information has also been added. The three reports and the proposed plan amendments have been compiled into a single report, Charting the Course for the Chesapeake Bay. Copies of this report were distributed to the Board at its May 22 work session, along with a complete summary of the proposed goals and strategies.

In general, the proposed Comprehensive Plan amendments merely memorialize policies that are currently in place (for example, as requirements in the Zoning Ordinance, Subdivision Ordinance, or other ordinances) or offer new strategies for achieving existing County goals. Some new implementation strategies are proposed, but for the most part these do not reflect any significant policy shifts. Major elements of the proposed amendments are outlined below:

- **Mandatory water connection.** Proposed Utilities Strategy 8.2 is to “*Adopt a local ordinance requiring existing households to connect to available water systems in the event of private well failure.*” York County currently requires households to connect to the public sewer system but not to the public water system; however, the installation of private wells to serve new development is prohibited when public water is available. This proposed strategy is intended to prevent contamination of the aquifer as a result of continued operation of deficient private wells. While this recommendation would represent a change in policy, staff believes that in most cases where public water is “available” the property owner would connect voluntarily (since the cost of a new well would most likely exceed the cost of hook-up to “available” public water). In any event, pursuing this strategy would require further study and evaluation. For example, the County Attorney has concluded that authority to adopt such an ordinance may currently be lacking. Therefore, the County Attorney has recommended that this provision be modified to state that such an ordinance would be adopted “*to the extent authorized by the Code of Virginia.*” In addition, while I believe this strategy would provide environmental benefits, I recognize that implementation would require much more analysis. Therefore, I recommend that the language be further modified to include the phrase “*investigate and consider,*” as follows:

Investigate and consider, to the extent authorized by the Code of Virginia, the adoption of a local ordinance requiring existing households to connect to available water systems in the event of private well failure.

- **Stormwater Management Ordinance.** Proposed Environment Strategy 8.4 is to “*Develop and adopt a stormwater management ordinance with water quality requirements.*” York County does not currently have a stormwater management ordinance; rather, stormwater management is addressed in a section of the Erosion and Sediment Control Ordinance. The Department of Environmental and Development Services is currently developing proposed revisions to the Erosion and Sediment Control Ordinance to track the latest State Model Ordinance and to

extract the stormwater management provisions into a separate stand-alone proposed ordinance, as recommended by the state.

- **Maintenance of detention and retention ponds.** Stormwater management ponds have been built all over the County in recent years, but in many cases those responsible for maintaining the ponds – such as homeowners’ associations and private property-owners – have no knowledge of or training in the proper methods of maintaining them. To address this problem, proposed Utilities Strategy 7.9 seeks to “*Provide training in the proper maintenance and operation of private retention and detention ponds to civic leagues, homeowners’ associations, and other owners of such ponds.*” Programs concerning proper maintenance have been developed by the Hampton Roads Planning District Commission and, through Mr. Orband’s Cooperative Extension Office, training sessions have already been offered to homeowner’s associations. This strategy suggests that these efforts be continued.
- **Docks and piers.** One of the goals of the Chesapeake Bay Program is to increase public access to waterfront areas while limiting, to the extent possible, private access. Studies have documented the harmful environmental effects that a proliferation of private docks and piers can produce. Accordingly, the proposed amendments encourage the construction of community piers in new waterfront housing developments and recommend that the County explore the acquisition of additional public access sites. These amendments recognize the well-established riparian rights that go with ownership of waterfront property while suggesting a system of incentives for individual property owners to choose not to construct private docks and piers. Such systems are already in place in the existing Zoning Ordinance, which encourages the use of the cluster development technique in waterfront areas, thereby promoting the incorporation of waterfront common areas and community piers into the development design.
- **Meaningful Bay Experience.** Proposed Environment Strategy 2.4 is to “*provide a meaningful Bay or stream outdoor experience, such as a field trip, for public school students in accordance with the Chesapeake 2000 Agreement*” beginning with the class of 2005. This strategy is one of the commitments made by Governor Gilmore and the other signers of the Chesapeake 2000 agreement, including the governors of Maryland and Pennsylvania, the Mayor of Washington, D.C., the Administrator of the Environmental Protection Agency, and the Chesapeake Bay Commission. It suggests that students in the graduating class of 2005 and succeeding ones have, at least sometime in their K-12 school experience, some type of Bay-related program. Although representatives of the School Division have expressed some concern about this strategy, staff believes it is already being accomplished by virtue of experiences such as field trips to the Watermen’s Museum that are offered to York County students. In addition, the schools already provide information on the Bay and pollution in general in science courses.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission conducted a special work session on April 25 to review and discuss the proposed amendments. Following the work session, staff made revisions to the document in response to the Commission’s recommendations. The Commission then considered the proposed amendments at its regular meeting on May 9 and, subsequent to conducting a public hearing at which no one spoke, voted unanimously (7:0) to recommend approval of the amendments as submitted.

The only issue that generated significant discussion on the part of the Commission was with regard to the previously discussed proposal for a “*meaningful Bay or stream outdoor experience.*” One Commission member suggested alternative language to “*encourage* a meaningful Bay or outdoor experience” (emphasis added), but after much discussion, the Commission decided that the more definitive language was appropriate. I tend to agree with Planning Commissioner White that the language should be modified slightly, to add the word “encourage” and to read as follows:

Encourage the School Division to provide, beginning with the class of 2005, a meaningful Bay or stream outdoor experience, such as a field trip, for public school students in accordance with the Chesapeake 2000 Agreement

COUNTY ADMINISTRATOR RECOMMENDATION

The Chesapeake Bay Program is a state-local partnership program established by the General Assembly and implemented by the local governments, working hand in hand with the CBLAD toward the shared goal of preserving the Chesapeake Bay. This is not a new commitment for York County; the proposed Comprehensive Plan amendments reflect a reaffirmation of the County’s existing commitment. As noted earlier, the County’s development ordinances are already consistent with the Chesapeake Bay Act and no changes to the Zoning or Subdivision Ordinances will be needed as a direct result of these proposed amendments. The proposed amendments recognize policies and programs that are already in place and propose some new strategies to achieve the County’s long-standing goals with regard to protecting and preserving the Chesapeake Bay and its tributaries. Therefore, I recommend that the Board amend the Comprehensive Plan through the adoption of the Charting the Course for the Chesapeake Bay report, with the minor amendments to Utilities Strategy 8.2 and Environmental Strategy 2.4, as recommended above. This can be accomplished by adopting proposed Ordinance No. 01-8.

Carter/3337

Attachments

- Minutes of Planning Commission work session, April 25, 2001
- Excerpts of Planning Commission minutes, May 9, 2001
- Proposed Ordinance No. 01-8